

02.01.2024
Item No.25
Ct. No. 29
CHC
Allowed

C.R.M.(A) 4230 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **English Bazar** Police Station Case No. **666/2023** dated **26.04.2023** under Section **109** of the Indian Penal Code read with Section **4** of Muslim Woman Protection of Rights on Marriage Act, 2019.
And

In the matter of : Md. Mohai Mainul Islam & anr.
..... petitioners

Mr. Usof Ali Dewan,
Mr. Asif Dewan
....for the petitioners

Md. Anwar Hossain,
Ms. Manisha Sharma
....for the State

The petition is taken up for consideration subsequent to the order dated October 16, 2023 passed by the co-ordinate Bench.

By such order, the petitioners were enlarged on interim anticipatory bail.

It is submitted at the bar that, such order was passed without consulting the Case Diary and in view of the ensuing Puja Vacation.

Learned advocate appearing for the petitioners submits that, the police complaint was filed 50 days after the alleged incident. There are pre-existing disputes between the de facto complainant and her husband.

State is represented.

We perused the materials in the Case Diary.

We find that, there is pre-existing maintenance proceeding pending before the appropriate Court between the de facto complainant and her husband.

We also find that, there is a delay in lodgement of the First Information Report.

The nature and extent of the involvement of the petitioners in the incident, if at all such incident arose, can be decided at the trial.

Considering the gravity of the offence and involvement of the petitioners in the incident as appearing from the materials in the Case Diary we confirm the interim order granted on October 16, 2023.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall meet the Investigating Officer as and when called for by the Investigating Officer and on condition that the petitioners shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the

jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

CRM(A) 4230 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)